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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re: Delphi Corporation, et al.,	:	Chapter 11
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Debtors.	:	Case No. 05-44481 (RDD)
	:	Jointly Administered
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**RESPONSE OF BENECKE-KALIKO AG TO DEBTORS' NINETEENTH OMNIBUS  
OBJECTION TO CLAIM NO. 9081**

Benecke-Kaliko AG ("Benecke"), by and through its attorneys, hereby submits the following response to the Nineteenth Omnibus Objection of Delphi Corporation and certain of its subsidiaries and affiliates (the "Debtors") to claim no. 9081 (the "Objection"). In support of its response, Benecke states that it possesses an unsecured claim against the Debtors in the amount of \$72,359.49, as reflected in its proof of claim, filed July 6, 2006 (the "Proof of Claim"). Moreover, Benecke states that the Debtors have failed to produce any evidence in support of their objection to Benecke's Proof of Claim.

**Substantiation of amount of claim 9081**

On July 6, 2006, Benecke filed its Proof of Claim against debtor, Delphi Automotive Systems, LLC, identified as claim no. 9081. Therein, Benecke asserted a claim totaling

\$72,359.49 in unsecured claims. Attached to the Proof of Claim were a debit-note in the amount of \$10,179.26 and an invoice in the amount of \$62,180.23 that substantiated the amount and nature of Benecke's unsecured claim. A true and accurate copy of the Proof of Claim, with supporting documents, is attached hereto as Exhibit A. Therefore, Benecke has established a prima facie claim in support of claim no. 9081.

Nonetheless, on July 13, 2007, the Debtors filed their Objection, requesting that the Court modify claim no. 9081 by reducing Benecke's total claim to \$10,679.26. The Debtors have offered no justification for their objection or any evidence to substantiate the proposed claim reduction.

**The Objection fails for lack of evidence**

The Debtors objection must also be denied for its failure to offer any evidence or justification for the proposed claim reduction.

11 U.S.C. § 502(a) states that a claim or interest, proof of which is filed under section 501 of title 11, is deemed allowed, unless party in interest objects. *11 U.S.C. § 502(a)*. However, Federal Rule of Civil Procedure 3001(f) provides that a proof of claim executed and filed in accordance with the bankruptcy rules shall constitute prima facie evidence of the validity and amount of the claim. *Fed. R. Bankr. Proc. 3001(f)*.

It is undisputed that, on July 6, 2006, Benecke filed its Proof of Claim and supporting documents with the Court. Therein, Benecke set forth the bases for its unsecured claim, totaling \$72,359.49, against the Debtors. Neither the timeliness, content, nor validity of the Proof of Claim, or the documents filed in support of the Proof of Claim, have been challenged by the Debtors.

In their July 13, 2007, Objection, the Debtors challenge Benecke's claim as stating "the incorrect amount" or as "overstated". See *Nineteenth Omnibus Objection at 15*. However, the Debtors have failed to offer any evidence in support of this allegation. Because the Debtors have failed to offer any evidence to support their Objection in the face of Benecke's claim, their Objection should be denied by the Court. Cf., *Lundell v. Anchor Constr. Specialists, Inc. (In re Lundell)*, 223 F.3d 1035, 1039 (9th Cir. Ariz. 2000) (Upon objection, a proof of claim provides "some evidence as to its validity and amount" and is "strong enough to carry over a mere formal objection without more." Therefore, to defeat a proof of claim the objecting party must come forward with sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves.")

WHEREFORE, Benecke respectfully requests that the Court deny the Objection to the Benecke's claim no. 9081, and enter an order allowing Benecke's unsecured claim in the amount of \$72,359.49.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

A true and correct copy of the foregoing response has been filed electronically this 9th day of August, 2007, with the U.S. Bankruptcy Court for the Southern District of New York. Notice of this filing will be sent via electronic mail to all parties who have entered an appearance by operation of the Court's electronic filing system. Additionally, copies of the foregoing were served via regular U.S. Mail, proper postage pre-paid, upon the following parties:

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